

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ICU MEDICAL, INC.,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 07-468-JJF
v.	)	
	)	
RYMED TECHNOLOGIES, INC.,	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendant.	)	

**RULE 16 SCHEDULING ORDER**

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1.     **Pre-Discovery Disclosures.** The parties will exchange by July 1, 2008 the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.1.

2.     **Joinder of Other Parties.** All motions to join other parties shall be filed on or before:

Plaintiff's Position: September 5, 2008;

Defendant's Position: November 5, 2008.

3.     **Settlement Conference.** Pursuant to 28 U.S.C. § 636, this matter is referred to Magistrate Judge \_\_\_\_\_ for the purposes of exploring the possibility of a settlement. If the parties agree that they would benefit from a settlement conference, the parties shall contact the Magistrate Judge to schedule a settlement conference so as to be completed no later than the Pretrial Conference or a date ordered by the Court.

4.     **Claim Construction Proceedings**

Hearing Date:

Plaintiff's Position: November \_\_\_\_, 2008;

Defendant's Position: February \_\_\_\_, 2009.

Joint Proposed Briefing Schedule:

Exchange proposed terms for construction:	90 days prior to hearing
Exchange construction proposals:	75 days prior to hearing
Simultaneous opening briefs:	60 days prior to hearing
Simultaneous reply briefs:	30 days prior to hearing

**5. Discovery.**

(a) Fact Discovery Schedule

Plaintiff's Position: Plaintiff contends that, pursuant to the Court's form scheduling order, fact discovery shall proceed as follows:

Exchange and completion of contention interrogatories, identification of fact witnesses and document production shall be completed by November 14, 2008;

Depositions shall not commence until the above-referenced written discovery, requests for admissions and interrogatories have been completed;

All fact discovery shall be completed by February 27, 2009.

Defendant's Position: Defendant contends that discovery should be completed by May 22, 2009 without phased discovery.

(b) Maximum of 25 interrogatories, including contention interrogatories, for each side.

(c) Maximum of 100 requests for admission by each side.

(d) Maximum of 100 deposition hours per party excluding expert depositions.

(e) Reports from retained experts required by Fed. R. Civ. P. 26(a)(2) for issues on which each party bears the burden of proof are due twenty (20) days after the close of fact discovery. Rebuttal reports shall be due thirty (30) days after opening expert reports.

(f) Any party desiring to depose an expert witness shall notice and complete said deposition no later than thirty (30) days after all expert reports have been exchanged pursuant to section 4(e), above, unless otherwise agreed in writing by the parties or ordered by the Court.

**6. Non-Case Dispositive Motions.**

(a) Any non-case dispositive motion, along with an Opening Brief, shall be filed with a Notice of Motion. The Notice of Motion shall indicate the date on which the movant seeks to have the motion heard. The hearing date shall allow time for filing of the motion, allow for briefing in accordance with Federal and Local rules, and shall permit all briefing to be filed no later than 12:00 noon the Friday before the motion day on which it is to be heard. Available motion dates will be posted on the Court's website at [www.ded.uscourts.gov](http://www.ded.uscourts.gov).

(b) At the motion hearing, each side will be allocated ten (10) minutes to argue and respond to questions from the Court.

(c) Upon filing of the Notice of Motion, a copy of said Notice shall be sent to Chambers by e-mail at: [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov).

**7. Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before:

Plaintiff's Position: September 5, 2008;

Defendant's Position: November 5, 2008.

8. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before:

Plaintiff's Position: March 20, 2009;

Defendant's Position: August 27, 2009.

Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court. The parties shall follow the Court's procedures for summary judgment motions, which is available on the court's website at [www.ded.uscourts.gov/JJFmain.htm](http://www.ded.uscourts.gov/JJFmain.htm).

9. **Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective June 30, 2007). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1 and be made in accordance with the Court's February 1, 2008 Order on Procedures for Filing Non-dispositive motions in Patent Cases. Briefs shall be limited to no more than ten (10) pages. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov). The e-mail shall provide a short statement describing the emergency.

**10. Pretrial Conference and Trial.** After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE